



An
Bord
Pleanála

Inspector's Report PL.15.249333.

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| Development | Subdivision and part change of use from retail to café / delicatessen. |
| Location | Main Street, Blackrock, Dundalk, Co. Louth. |
| Planning Authority | Louth County Council. |
| Planning Authority Reg. Ref. | 17/422. |
| Applicant(s) | Conor Hughes. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant Permission. |
| Type of Appeal | Third Party |
| Appellant(s) | Niall Carroll and others. |
| Observer(s) | None. |
| Date of Site Inspection | 2 nd January 2017. |
| Inspector | Karen Kenny. |

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1.0 Site Location and Description

- 1.1.1. The site is located on Main Street, Blackrock, a coastal village that is situated to the south of Dundalk. The site is located opposite Blackrock beach and a public car parking area along the sea front.
- 1.1.2. The applicant's property comprises a two storey end of terrace building with flat roof over. The property fronts onto the western side of Main Street and sides onto a narrow laneway to the north. The property also incorporates a single storey structure to the rear with frontage onto the laneway. The ground floor is currently in retail use (selling musical instruments and other items). The use at first floor level is not stated, however, there would appear to be a music school / recording studio at this level. The site relates to the northern section of the ground floor only.
- 1.1.3. There is a mixture of commercial and residential properties in the vicinity, including a public house adjoining to the south, a café with residence over to the north and residential properties to the rear (west).

2.0 Proposed Development

- 2.1. The development as detailed in the public notices consists of the part change of use and subdivision of an existing retail unit to café / delicatessen, alterations to existing shop front and associated site development works.
- 2.2. The proposed unit has a stated floor area of 77.5 square metres with a stated seating area of 38 square metres, a shop area of 29 square metres and a store and toilet to the rear. While a single storey structure to the rear falls outside of the site boundary, it is proposed to provide covered bin storage in this structure.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to 6 no. conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Following the submission for further information in relation to shop front design and the storage of perishable waste, the Planning Officer's Report concludes that the development is considered acceptable and in line with development plan policy.

3.2.2. Other Technical Reports

Infrastructure Section: No objection.

3.3. **Prescribed Bodies**

Irish Water: No objection.

3.4. **Third Party Observations**

A total of 5 no. third party submissions / objections were received and considered by the Planning Authority. The issues raised are similar to those raised in the grounds of appeal set out below.

4.0 **Planning History**

There is no recent planning history pertaining to the appeal site.

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. The Louth County Development Plan 2015-2021 is the Development Plan for County Louth including the administrative area of the former Dundalk Town Council including Blackrock Village. Blackrock is located within the environs of Dundalk. The County Development Plan states that the Dundalk and Environs Development Plan 2009-2015 will be replaced by a Local Area Plan. In the absence of a Local Area Plan the Development Plan for County Louth is the relevant statutory plan. The following provisions of the County Development Plan are considered to be relevant:

- It is a strategic aim of the Core Strategy to support the realisation of more sustainable towns and villages appropriate to the scale of the settlement and its position in the settlement hierarchy.
- Section 6.6 states that retail policies outlined in the Plan aims to preserve and enhance the viability and vitality of the town and village centres.
 - EDE 32: To ensure that applications for retail development comply with the provisions of Retail Planning: Guidelines for Planning Authorities 2012, Retail Design Manual 2012 and with the provisions and policies of the *Louth Retail Strategy 2014*.
 - EDE 33: To promote a healthy competitive retail environment within County Louth and to maintain the vitality and viability of the town and village centres and their role as primary retail core areas.
 - EDE 35: To generally discourage permission for change of use from retail or service (including banks and similar institutions with over the counter services) to non-retail or non-service uses at ground floor level.
- Section 6.7.4 sets out guidance on Shopfront Design.
- Table 7.6 requires car parking provision at a rate of 1 space per 50 square metres in settlement centres for retail development, and 1 space 20 square metres square metres for restaurants.

5.1.2. **Dundalk Town & Environs Development Plan 2009 – 2015**

5.1.3. In addition to the County Development Plan, I have reviewed the expired Dundalk Town & Environs Development Plan 2009 – 2015 as this provides the most recent zoning framework for the area. The site was zoned 'BR' (Blackrock Village) with an objective '*To provide for mixed use development to support its role as a local service and seaside resort*'. The Retail Hierarchy identifies Blackrock Village as a Level 2 Centre, below the Dundalk Retail Core Area, with objectives to maintain Blackrock as a retail and service centre to meet the needs of local residents and visitors; and to promote mixed use development with residential on upper floors.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. 1 no. third party appeal has been received from local residents and the operators of flood outlets in the vicinity. The principle grounds of appeal, that are relevant to the appeal, can be summarised as follows:

- Number of food service businesses in the area.
- Change of use would contribute to a uniformity of uses rather than a diversity of services contrary to Retail Strategy for the area.
- Noncompliance with building regulations, public health and operational requirements.
- Wastewater infrastructure inadequate to cater for the development.
- The legal entitlement to access sewer on adjacent private laneway has not been addressed.
- Impact on residential amenity.
- Impact of deliveries on narrow laneway.
- Car parking.
- Hours of operation.
- Bin storage provisions and potential for nuisance.
- Procedural issues relating to display of site notice, level of detail provided with the application and the potential for extension beyond the stated café / delicatessen use.
- History of unauthorised development.

6.2. Applicant Response

- No response.

6.3. Planning Authority Response

- No further comment.

6.4. Observations

None.

7.0 Assessment

7.1.1. I consider that the main issues in this case are as follows:

- Principle of Development
- Impact on Residential Amenity
- Traffic and Parking Impacts
- Other Issues
- Appropriate Assessment (AA) Screening

7.2. Principle of Development

7.2.1. Permission is sought to subdivide an existing retail unit and to change the use of the northern section from retail to café / delicatessen. The Louth County Development Plan 2015-2021 is the relevant statutory plan for the area. It is a policy of the Development Plan to promote a healthy competitive retail environment within County Louth and to maintain the vitality and viability of the town and village centres (Policy EDE 33).

7.2.2. The Dundalk and Environs Development Plan 2009-2015, while expired, sets out the most recent zoning framework and retail hierarchy for Dundalk and its environs, including Blackrock. Blackrock is identified as a Level 2 Centre in Dundalk with the objective to maintain Blackrock as a retail and service centre to meet the needs of local residents and visitors. The site was zoned 'Blackrock Village' with an objective

'To provide for mixed use development to support its role as a local service and seaside resort'. Restaurant / cafe uses are permitted in principle in this zone.

Having regard to the provisions of the County Development Plan and the Dundalk and Environs Development Plan 2009-2015, I am satisfied that the proposed use is acceptable in principle, subject to the assessment of the relevant planning issues identified below.

- 7.2.3. The grounds of appeal argue that Blackrock Main Street has an over apportion of food service businesses and that that proposed development would impact on the vitality of the village. While I note that there are a number of food outlets along the Main Street there is significant variation in the type of outlets (public houses, restaurants, cafes, takeaways). There is also a broad range of commercial uses along the street. I do not consider that the proposed development when taken in conjunction with the existing outlets would constitute an excessive concentration of this type of use. I consider that the proposed café / delicatessen would add to the range of services available in the village and contribute to the vitality of the commercial area.

7.3. Impact on Residential Amenity

- 7.3.1. The grounds of appeal argue that the proposed café / delicatessen will impact on residential amenity. The site is located in the commercial core of Blackrock at a location where there is a mixture of commercial and residential uses. There are dwellings in the vicinity along Main Street and along the cul-de-sac to the rear (west).
- 7.3.2. I consider that the general operation of a café / delicatessen of the scale proposed would be unlikely to generate excessive noise levels or to result in other undue impacts on the amenities of properties in the vicinity. I consider that the proposed use represents an appropriate use in a commercial area and I am satisfied that, subject to appropriate conditions in relation to hours of operation and the management of odour and litter that the proposed use would not impact unduly on the amenities of the nearby properties.
- 7.3.3. While I note the concerns raised by the appellants in relation to alleged non-compliance with the terms of previous permissions, this is not a matter for the

Boards consideration, and issues of this nature should be raised with the planning authority.

7.4. Suitability of the Site

- 7.4.1. The grounds of appeal argue that the premise is unsuitable for the proposed use and is substandard by reference to building regulation standards and environmental health requirements. I would note that there is adequate space within the overall holding to make provision for refuse storage and ventilation. I would concur with the view of the Planning Authority. These issues are matters that are addressed under other specific regulatory regimes. To insure that adequate provisions are in place prior to the operational phase of the development, I would recommend that a condition is attached, in the event of a grant of permission, requiring the developer to control odour emissions from the premises and to agree details of any external ducting or ventilation required with the planning authority prior to the commencement of development. I would also recommend a condition requiring the agreement of a litter / refuse management plan prior to the commencement of development.

7.5. Traffic and Parking Impacts

- 7.5.1. The grounds of appeal argue that the proposed café / delicatessen would exasperate traffic and parking issues in the area. There is on – street car parking along the sea front and road edge at this location and I consider that the proposed development would not generate a significant car parking requirement. The assessment of the Planning Authority concludes that the proposed development would have a similar requirement to that of the existing retail floorspace. On the basis of the foregoing, I am satisfied, that there is adequate car parking in the area to serve deliveries, customers and staff. Issues raised in relation to the obstruction of a private laneway are not related to the subject application and fall outside the scope of the Boards consideration.

7.6. Other

- 7.6.1. In relation to wastewater drainage, the appellants content that the applicant has not demonstrated a legal right to connect to services on the adjacent laneway and that

there is insufficient capacity to cater for the development. The Report from Irish Water indicates no objection to the development. On the basis of the report from Irish Water, the availability of public water services in the area and the existing connection to the subject property, I am satisfied that adequate arrangements can be made for a connection to Irish Water's networks.

- 7.6.2. The ground of appeal contend that the public notice was not visible at all times during the initial 5-week period as it was hidden when the shop shutters were closed. I noted on inspection that the site notice remained visible and was located outside of the shutters. The appellants were in a position to make submissions / observations to the Planning Authority within the statutory five-week period and as such, I consider that the appellant's rights in respect of submitting observations or appealing the decision of the Planning Authority to An Bord Pleanála have not been compromised or prejudiced as a result of any potential contravention of the Regulations.

7.7. Appropriate Assessment (AA) Screening

- 7.7.1. The site is located approximately 20 metres from the designated area of the Dundalk Bay SAC (Site Code: 000455) and approximately 25 metres from the Dundalk Bay SPA (Site Code: 004026). Having regard to the nature of the development and the location of the site in a fully serviced built up urban area, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission should be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the location of the site within the commercial core of Blackrock and the pattern of existing development in the area, it is considered that the proposed

development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area and would not conflict with the objectives of the Louth County Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 23rd day of August 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The hours of operation shall be between 08.00 hours and 21.00 hours.

Reason: In the interest of the residential amenities of property in the vicinity.

3. The developer shall control odour emissions from the premises in accordance with measures, including ducting, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

4. Litter in the vicinity of the premises and refuse from the premises shall be controlled in accordance with a scheme of litter and refuse control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the

provision of litter bins and refuse storage facilities.

Reason: In the interest of visual amenity.

5. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

6. The proposed shopfront shall be in accordance with the following requirements:
 - (a) Signs shall be restricted to a single fascia sign using sign writing or comprising either hand-painted lettering or individually mounted lettering,
 - (b) Lighting shall be by means of concealed neon tubing or by rear illumination,
 - (c) No awnings, canopies or projecting signs or other signs shall be erected on the premises without a prior grant of planning permission,
 - (d) No adhesive material shall be affixed to the windows or the shopfront.

Reason: In the interest of visual amenity.

7. Water supply and drainage arrangements shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

Karen Kenny
Senior Planning Inspector

15th January 2017